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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,468	09/28/2001	Toshiaki Shimizu	60,518-004	6484

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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

EXAMINER	
CAPRON, AARON J	

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/966,468	SHIMIZU, TOSHIAKI	
	Examiner	Art Unit	
	Aaron J. Capron	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 March 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8,12-22 and 24-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8,12-22 and 24-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

AJC

1)☑ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

This is a response to the Amendment received on March 18, 2004, in which claims 1, 5, 12, 20 and 26 were amended, claim 30 was added, and claim 23 was cancelled. Claims 1-8, 12-22 and 24-30 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 8, 12, 19-20 and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olive.

Olive discloses a gaming machine having a plurality of cells; a first plurality of game elements that trigger a bonus event; wherein the bonus event alters the first game elements into a bonus second game elements and an independent wild cell is initiated in response to the bonus game (claim 1 and 3:15-33), and a wild cell being determined randomly by the game controller (4:13-16), wherein the wild cell enters from a predetermined position (3:44-46) and the game controller determines where the wild cell moves from the first to the second games of the bonus period (4:8-21), but does not disclose the game controller designating a cell to be a wild cell during the replacement period. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the game controller to determine the position of the wild cell while the replacement period is occurring since, lacking criticality, it

would not alter the game in manner that would distinguish the equivalent functionality of determining the position of the wild cell before or after the replacement period. The claimed invention does not differentiate that the determination of the position of the wild cell is before or after the determination of symbols within the cells and it does not appear that this determination is used for determining a predetermined outcome. Thus, the claimed feature is viewed by the Examiner to be of equivalence with the claimed invention of Olive.

Olive discloses using poker symbols (Figures 3-4e) with a slot machine type game, but does not disclose using the same symbols. However, it is notoriously well known in the art of reel type poker games, that players have the option of holding symbols that would give the player the best shot of winning prize and thus, keep the player more entertained with the game. Further, it is notoriously well known that each cell has a plurality of the same symbols on each virtual or real slot reel and that it would be possible for a player to have the same symbol appear at the same cell after a replacement of symbols between each spin. One would be motivated to provide this feature into Olive in order to keep the player more entertained with the game. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the use of the same symbol into a cell into the game of Olive in order to keep the player more entertained with the game.

Claims 2-7, 13-18 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olive in view of Jaffe (U.S. Patent No. 6,517,432).

Referring to claim 2, Olive discloses a bonus game having a wild symbol, but does not disclose having multiple wild symbols. However, Jaffe includes a plurality of wild cells wherein

the wild symbols are moved randomly (6:21-34) around until the number of bonus rounds reaches a predetermined count (6:4-12). One would be motivated to combine multiple symbols into Olive in order to give players a better chance of winning in a bonus game, which would create more interest in the game. The extra interest in the game would create more revenues for the casinos. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate multiple wild cards into Olive's game in order to generate more revenue for the casinos

Referring to claim 3, Olive discloses positioning a wild cell over the game element in order to conceal the game element (3:51-53).

Referring to claim 4, Olive discloses playing the bonus game for a predetermined number of times (3:19-26).

Referring to claim 5, Olive discloses the wild cell forming a winning combination.

Referring to claims 6-7, Olive discloses a coin-bill management device (2:50-3:2).

Claims 13-18 correspond in scope to a gaming method set forth for use of the gaming machine listed in the claims above and are encompassed by use as set forth in the rejection above.

Claims 21-22 correspond in scope to a readable recording medium set forth for use of the gaming machine listed in the claims above and are encompassed by use as set forth in the rejection above.

Response to Arguments

Further, it is noted that the Applicant's failed to reasonably traverse examiner's well known statements in their response, therefore, the object of the examiner's statements (e.g. using the same symbols) is taken as admitted prior art. *In re Chevenard,* 139 F.2d 711, 60 USPQ 239 (CCPA 1943).

Applicant argues that Olive does not suggest activating a bonus character to move along the grid of cells and designate the wild cell while the first plurality of game elements are being replaced by the second plurality of game elements. However, Olive specifically discloses that the dolphin moves across the screen (3:44-46). Further, as stated above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the game controller to determine the position of the wild cell while the replacement period is occurring since, lacking criticality, it would not alter the game in manner that would distinguish the equivalent functionality of determining the position of the wild cell before or after the replacement period. The claimed invention does not differentiate that the determination of the position of the wild cell is before or after the determination of symbols within the cells and it does not appear that this determination is used for determining a predetermined outcome. Thus, the claimed feature is viewed by the Examiner to be of equivalence with the claimed invention of Olive. Therefore, the claimed invention fails to preclude Olive's invention.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Vancura (U.S. Patent No. 6,033,307) discloses using a bonus multiplier determined before, during or after game play in order to determine a player's final bonus award (13:53-65).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ajc

JESSICA HARRISON
PRIMARY EXAMINER